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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,660	07/20/2000	Marcel Linschoten	1103326 0630	9005

7590 04/20/2004

White & Case  
1155 Avenue of the Americas  
New York, NY 10036-2787

EXAMINER

COVINGTON, RAYMOND K

ART UNIT	PAPER NUMBER
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1625

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/600,660

Applicant(s)

LINSCHOTEN ET AL.

Examiner

Raymond Covington

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 12-26 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 7, 8, 10, 19 and 21-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 9, 18 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Applicants' comments regarding the restriction requirement have been noted and considered. However the restriction is deemed sound for reasons of record and is hereby maintained. Upon determination of allowable subject matter the Examiner will review the claims and indicate (a) a generic concept inclusive of the elected species {compounds which are so similar thereto as to be part of the elected matter} and (b) by such indication (i.e. by exclusion) which compounds are drawn to non-elected subject matter.

Upon reconsideration of the amendment of 12/22/03 the 35 USC 102 rejection of claims 1,6,9,18 and 20 has been withdrawn with respect to the cited prior art.

Claims 1, 6, 9, 18 and 20 objected to as non-elected subject matter, but would be allowable if rewritten and limited to compounds of applicants' formula (I) where  $R_4$  is  $-P-O-R_6$ ,  $X$  is  $CH_2$ ,  $R_1$  is non-heterocyclic,  $R_6$  is non-heterocyclic,  $Y$  is O or S  $Z$  is H and/or non-heterocyclic,  $X$  is only  $C(Z)_2$  or  $CONR_7$ .

The search is hereby extended to the species of formula (I) where  $R_1$  is  $CH_2-CH_2$  substituted with a basic group,  $X$  is  $C(Z)_2$  where  $Z$  is hydrogen  $R_2$  is Hydrogen,  $R_3$  is  $COOH$ ,  $Y$  is a single bond and  $R_4$  is  $COOH$ .

### NEW REJECTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 9, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Floyd US 2,516,307, Landvatter et al Chem. Abs. Vol. 124 no. 145795, Gibson et al EP Jol. Med. Chem. V.32 no. 10 pp 823-831 (1997), Fini et al Makro. Chemie V.199 no. 8 pp 1959-1971 (1987) or Lindell et al BioOrg. Med. Chem. V.6 no. 5 pp 547-552 (1996).

The above references all teach compounds of the same type recited in the claims.

No claim is allowed.

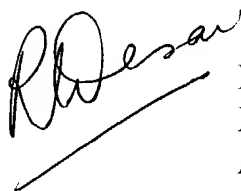
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Covington whose telephone number is (703) 308-4704. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. McKane can be reached on (571) 272-0699. The fax

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RKC



Raymond Covington  
Examiner  
Art Unit 1625

**RITA DESAI**  
**PRIMARY EXAMINER**